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Chief Executive Officer

September 20, 2013

To: Supervisor Mark Ridley-Thomas, Chairman
Supervisor Gloria Molina
Supervisor Zev Yaroslavsky
Supervisor Don Knabe
Supervisor Michael D. Antonovich

From: William T Fujioka
Chief Executive Officer

SACRAMENTO UPDATE

Executive Summary

This memorandum contains reports on the following:

- **Pursuit of County Position to Support SB 239 (Hernandez and Steinberg).** This measure would extend the existing Medi-Cal hospital quality assurance fee from January 1, 2014 to December 31, 2016, and roll-back the proposed Medi-Cal rate reduction for hospital-based skilled nursing facilities, known as Distinct Part/Skilled Nursing Facilities (DP/SNFs), for services provided on or after October 1, 2013. Therefore, unless otherwise directed by the Board, consistent with existing policy to: 1) support proposals to expand the use of inter-governmental transfers, health provider fees, and other allowable methods to increase net Federal Medicaid matching payments to California and health providers like the County at no cost to the State General Fund, and 2) support proposals to align Medi-Cal reimbursement rates for providers and hospitals in medically underserved areas and to support a dependable, long-term funding source for the health care safety net, **the Sacramento advocates will support SB 239 and request the Governor to sign this measure**.

- **Report on Legislation of County Interest AB 662 (Atkins)** - regarding elimination of the prohibition on infrastructure financing districts overlapping with redevelopment project areas and changes to the redevelopment dissolution statutes.

- **State Audit Reports.** Update related to the release of audit reports on the Los Angeles County Measure B Trauma Care funds and the Child Protective Services Program.

Pursuit of County Position on Legislation

SB 239 (Hernandez and Steinberg), which as amended on September 11, 2013, would extend the existing Medi-Cal hospital quality assurance fee from January 1, 2014 to December 31, 2016. Revenues generated from the fees would be used to increase the Federal Medical Assistance Percentage reimbursement to provide: 1) direct grants to designated and non-designated public hospitals; 2) funds for children's health care coverage; 3) supplemental payments to private hospitals for certain Medi-Cal services; and 4) increased capitation payments to Medi-Cal managed care plans for hospital services. The most recent amendments to this measure would also roll-back the proposed Medi-Cal rate reduction for hospital-based skilled nursing facilities, known as Distinct Part/Skilled Nursing Facilities (DP/SNFs), for services provided on or after October 1, 2013. SB 239 is an urgency measure which would be effective immediately if signed by the Governor.

Under existing law, **County-supported SB 335 (Chapter 286, Statutes of 2011), AB 1653 (Chapter 218, Statutes of 2010), and AB 1383 (Chapter 627, Statutes of 2009)** imposed a quality assurance fee on certain general acute care private hospitals. The revenue generated by the fees is used to draw down enhanced Federal Medicaid matching funds which provide additional Medi-Cal payments to hospitals, fund children's health coverage, and increase payments to Medi-Cal managed care plans providing hospital services. The fee is set to expire on December 31, 2013.

In March 2011, the Legislature enacted a number of measures to address the existing $26.6 billion State Budget deficit. These measures resulted in significant reductions to health and human services programs included in AB 97 (Chapter 3, Statutes of 2011), which among other provisions, rolled back payment rates for Distinct Part/Skilled Nursing Facilities (NP/SNFs) to the rates that were in place in FY 2008-09, resulting in an average rate reduction of 25 percent for these facilities which provide specialized care for former acute care hospital patients with medically complex health issues.

SB 239 would extend the existing hospital quality assurance fee through December 31, 2016, and establish a new structure for administering and allocating revenues generated from the fees. The bill also contains a Los Angeles County-specific provision which would allow the replacement for the new Martin Luther King, Jr. Community Hospital to receive funds generated from the fee without the current qualifying period. According to the Senate Health Committee, SB 239 would generate an estimated $9.9 billion Statewide in funding for hospitals and $2.4 billion in State General Funds for children's health care and State administration from January 1, 2014 through December 31, 2016. SB 239 also contains provisions similar to those in **County-supported AB 900** to roll-back the Medi-Cal rate reduction to DP/SNFs for services provided on or after October 1, 2013.

The Department of Health Services (DHS) indicates that, based on historic data, SB 239 would provide an estimated $20.0 million in additional funding to the County annually through December 31, 2016. As reported in the June 21, 2013 Sacramento Update containing the pursuit of position in support of AB 900, although DHS does not operate hospital-based DP/SNFs, these facilities are critical to the County's overall health care safety net. DHS indicates that it routinely coordinates the placement of patients with SNFs and DP/SNFs. According to DHS, the availability of these facilities helps patients recover more quickly and results in fewer hospital readmissions and emergency department visits.

The Department of Health Services and this office support SB 239. Therefore, unless otherwise directed by the Board, consistent with existing policy to: 1) support proposals to expand the use of intergovernmental transfers, health provider fees, and other allowable methods to increase net Federal Medicaid matching payments to California and health providers like the County at no cost to the State General Fund, and 2) support proposals to align Medi-Cal reimbursement rates for providers and hospitals in medically underserved areas and to support a dependable, long-term funding source for the health care safety net, **the Sacramento advocates will support SB 239 and request the Governor to sign this measure.**

SB 239 is sponsored by the California Hospital Association, and supported by: the California State Association of Counties; Alliance of Catholic Health Care; California Coverage and Health Initiatives; Children Now; Children's Defense Fund - California; PICO California; and Private Essential Access Community Hospitals, Inc. The measure is opposed by Michelle Steele, Member of the State Board of Equalization.

SB 239 passed the Senate Floor by a vote of 38 to 0 and the Assembly Floor by a vote of 77 to 0 on September 12, 2013. This measure is currently awaiting action by the Governor.

Legislation of County Interest

AB 662 (Atkins), which as amended on August 13, 2013, would: 1) allow an infrastructure financing district to include portions of former redevelopment project areas; 2) authorize a successor agency that has received a finding of completion to enter into contracts, amend existing contracts or agreements, or administer projects in connection with enforceable obligations if no new tax revenues are committed and the activity will not adversely impact the flow of property tax revenues or payments; 3) require a successor agency to provide notice to the oversight board at least 10 days prior to entering into a contract or agreement for the use or disposition of properties, as specified; 4) allow the oversight board to notify the successor agency during that 10-day period if it intends to conduct a public hearing to determine whether the contract or agreement is consistent with the successor agencies long-range asset management plan; and 5) create a housing entity administration cost allowance to be allocated to a local housing authority that has assumed the housing duties of a former redevelopment agency, was amended on September 6, 2013.

The amendments double-joint AB 662 to another redevelopment clean-up bill, AB 564 (Mullin), which would prohibit the Department of Finance (DOF), once a finding of completion is issued, from future modification or reversal of an action of approval by an oversight board for specified enforceable obligations of a successor agency. The bill contains an exception from these provisions for an enforceable obligation initiated by a successor agency.

Existing law authorizes the creation of an infrastructure financing districts (IFDs) for the purpose of financing public facilities, subject to the adoption of a resolution by the legislative body and affected taxing entities proposed to be subject to the division of taxes and voter-approval requirements, and prohibits IFDs from including any portion of a redevelopment project area. Existing law also prohibits a redevelopment successor agency from entering into contracts with, incurring obligations, or making commitments to any entity, as specified, or from amending or modifying existing agreements, obligations, or commitments with any entity, for any purpose. Existing law also requires that specified actions of a redevelopment successor agency first be approved by its oversight board, including, among others, the establishment of its Recognized Obligation Payment Schedule (ROPS).

AB 662 would modify the laws governing the creation of an infrastructure financing district to include a portion of former redevelopment project areas and would make several changes to the laws governing the dissolution of redevelopment agencies. The bill would not alter the requirements under current law that require an affecting taxing entity to approve the infrastructure financing plan by resolution of its governing body in order for its tax increment to be contributed to the IFD.

The Community Development Commission (CDC) reports that the provision that would allocate funds from the Redevelopment Obligation Retirement Fund (funds used to pay down existing debts of the redevelopment agencies) to cover the housing entity administrative costs of a local housing authority that assumed the housing duties of the former redevelopment agency would be beneficial to the Housing Authority of Los Angeles County (HACoLA). Under the redevelopment dissolution statutes, municipalities can designate a local housing authority as 'housing successor' without seeking permission from the housing authority; however, no funds were designated for the assumption of the duties required of designated housing successors such as property maintenance and monitoring of affordability covenants. Four municipalities and CDC have designated HACoLA as their housing successor agency. This unsolicited assignment of former redevelopment housing programs and assets is unfunded and imposes liabilities on HACoLA. As amended, AB 662 would provide, from January 2, 2014 to June 1, 2018, an amount of up to one percent of the property tax allocated to the Redevelopment Obligation Retirement Fund on behalf of the successor agency for each applicable fiscal year, but not less than $150,000 per fiscal year to the local housing authority which has assumed the housing functions of a former redevelopment agency. Because four municipalities, and the CDC, have designated HACoLA as their housing successor, AB 662 would provide at least $750,000 to HACoLA to perform these functions, creating a funding source for proper administration of the housing assets received.

County Counsel indicates that AB 662 contains some provisions of concern to the County. The provisions authorizing successor agencies to amend or enter into contracts associated with long-term enforceable obligations may be problematic because there is no way to know until after the fact whether a new contract or amendment will adversely impact the flow of tax increment to the taxing agencies, and if it does, third party reliance has already been established. County Counsel also advises that the provisions of AB 662 would increase the amounts of repayment of loans to a city by specifying that the residual distribution for FY 2012-13 does not include revenue distributed to taxing entities as part of the due diligence review process. Current law limits the amount that an agency can pay during each ROPS period towards repaying a loan between a former redevelopment agency and its sponsoring city to an amount equal to half of the difference between the residual distribution in the fiscal year the loan payment is made and the residual distribution made in FY 2012-13. Finally, County Counsel advises that the provision allowing ROPS payments to be scheduled beyond the current ROPS period does not place any limits

on how far out an agency can schedule such payments and would allow a successor agency to receive additional Redevelopment Property Tax Trust Fund revenue for payments that are not due during the next 6-month cycle as long as they can show the payment recipient requires cash on hand. Without specific knowledge of how common it is for successor agencies to be required under contract to have cash on hand, it is impossible to determine the potential impact of this provision.
The Auditor-Controller indicates that AB 662 would allow redevelopment successor agencies to divert additional tax revenues (approved by voters for a specific purpose) to, instead, pay for redevelopment activities. Currently, 12 successor agencies in Los Angeles County are entitled to a portion of voter-approved pension taxes generated within redevelopment projects. AB 662 would expand the type of voter-approved tax revenues successor agencies are entitled to receive. The Auditor-Controller notes that AB 662 could add another layer of calculations to determine residual property tax revenues that result from the dissolution of redevelopment agencies because the current calculation excludes certain tax revenues generated from voter-approved debt service rates (e.g., General Obligation Bonds). While there are currently no IFDs within the County, the Auditor-Controller notes that there could be an impact in the future if an IFD is created within the County's jurisdiction which overlaps with a former RDA's project area boundaries.

AB 662 is supported by: the American Federation of State, County and Municipal Employees, AFL-CIO; BRIDGE Housing; California Infill Builders Association; Cities of Sacramento, San Diego and West Sacramento; Cynthia Morgan (Chair of the Board of Civic San Diego); Mission Bay Development Group; San Diego Housing Federation; Smart Growth Investors II; and Strada Investment Group. The measure is opposed by the Santa Clara County Board of Supervisors.

AB 662 passed the Assembly Floor by a vote of 78 to 0 on September 12, 2013. This measure now proceeds to the Governor.

State Audit Reports Update

As previously reported, on June 5, 2013, the Joint Legislative Audit Committee approved requests for audits of the Los Angeles County Measure B Trauma Care funds and the Child Protective Services (CPS) Program. Last week, the State Auditor's Office released the following information relating to these audit reports:

- **Los Angeles County Measure B Trauma Care Funds.** This audit report is estimated to be released in February 2014. As previously reported, this report was requested by Assembly Member Roger Hernández to examine the County's allocation and management of voter-approved Measure B funds over the past four years. The Assembly Member requested the audit on the claim that Measure B funds have not been allocated equitably to underserved areas such as the San Gabriel Valley. The audit request is related to **County-opposed AB 1357,** which would have required Measure B trauma care funds collected from properties in the San Gabriel Valley to remain within that region for medical and trauma services to reduce ambulance diversion and to establish a task force to study and audit County Measure B funds collected from properties in the San Gabriel Valley. AB 1357 was held in the Assembly Health Committee on April 30, 2013 at the request of the author and is now a two-year bill. The following link provides further information on this audit request: http://www.bsa.ca.gov/pdfs/analyses/2013-116.pdf.

- **Child Protective Services.** The audit report for Policies and Procedures for Seizing Children is estimated to be released in January 2014. According to the Joint Legislative Audit Committee staff, the counties of San Francisco, Butte, and Orange have been selected for the audit. Although Los Angeles County was not selected for this audit, at the June 5, 2013, the State Auditor referenced its March 2012 report on Los Angeles County regarding child placements and child fatality reviews and indicated that the report included numerous recommendations to the County. It is possible that follow-up information regarding those recommendations could be included as part of the January 2014 audit report.

We will continue to keep you apprised.

WTF:RA
MR:VE:IGEA:ma

c: All Department Heads
Legislative Strategist
Local 721
Coalition of County Unions
California Contract Cities Association
Independent Cities Association
League of California Cities
City Managers Associations
Buddy Program Participants